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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------|
| 10/751,735  | 01/06/2004  | Hideyuki Naito       | VX022451A                    | 3990             |
| 21369   | 7590        | 03/23/2006           |                              |                  |
| POSZ LAW GROUP, PLC<br>12040 SOUTH LAKES DR.<br>SUITE 101<br>RESTON, VA 20191 |             |                      | EXAMINER<br>AVERY, BRIDGET D |                  |
|   |             |                      | ART UNIT                     | PAPER NUMBER     |
|   |             |                      | 3618                         |                  |

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/751,735

Applicant(s)

NAITO ET AL.

Examiner

Bridget Avery

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-15 is/are rejected.
- 7) ☐ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 10/167,615.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/06/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Species VIII (Figures 24 and 25) in the reply filed on February 16, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. An action on the merits of claims 1-15 follows.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plates (as recited in claim 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

4. Claim 2 is objected to because of the following informalities: on line 2, the phrase "a pad attached to one of the first band and the second band at an upper surface of the pad, and the toe end portion of the boot at a lower surface of the pad" should be changed to --a pad attached to one of the first band and the second band at an upper surface of the pad; the toe end portion of the boot engaging a lower surface of the pad--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "and the second ends of the first belt and the second belt are not adjustable with respect to the second of the base plate" is confusing thus rendering the claim indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 1-3, 6-9, 13 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Andrevon (US Patent 6,679,516).

Andrevon teaches an apparatus for binding a boot to a base plate of a snowboard (3), including: a first band (32) mounted on a first side of the base plate (6); a second band (34) mounted on a second side of the base plate opposite the first side of the base plate (6) in a width direction, the second band (34) being removably attached to the first band (32), and capable of fastening a toe end portion of the boot to the base plate (6) where the second band (34) can fasten the toe end portion at an acute angle with respect to the base plate and the toe end portion of the boot; a pad (53) attached to one of the first band and the second band at an upper surface of the pad (53), and the toe end portion of the boot at a lower surface of the pad; the pad (53) is a soft material, as described in column 4, lines 15-40; Re claim 6, a first band (32)

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mounted on a first side of the base plate (6); a second band (34) mounted on a second side of the base plate (6) opposite the first side of the base plate (6) in a width direction; and a pad (53) mounted-on the first band at a first portion and removably attached to the second band (34) at a second portion, wherein the pad fastens a toe end portion of the boot at an acute angle with respect to the base plate and the toe end portion; a first belt (33) for fastening an upper portion of the toe end of the boot to the base plate; a second belt (33 integral and equivalent to applicant's) for fastening a front portion of the toe end of the boot to the base plate (6), the first belt (33) and the second belt being connected to each other at first ends thereof and connected to each other at second ends thereof; and a second band (34) connected removably to the first ends of the first belt and the second belt, and connected fixedly to the second side of the base plate (6), where the second ends of the first belt and the second belt are removably connected to the first band (32), as taught in column 3, lines 36-37; the first belt and the second belt are formed integrally with respect to each other, as clearly shown in Figure 4.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrevon ('516).

Andrevon teaches the features described above.

Andrevon lacks the teaching of a pad divided into two plates and the teaching of a first and second belt removably connected to each other.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide a pad divided into two plates and the teaching of a first and second belt removably connected to each other, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andrevon ('516) in view of Rigal et al. (US Patent 6,076,848).

Andrevon teaches the features described above.

Andrevon lacks the teaching of a first band adjustable with respect to the first ends of the first belt.

Rigal et al. teaches a band adjustable with respect to the ends of a belt.

Based on the teachings of Rigal et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the band to include a series of holes to facilitate adjustment. See column 4, lines 55-67 and column 5, lines 1-5.

***Allowable Subject Matter***

9. Claims 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

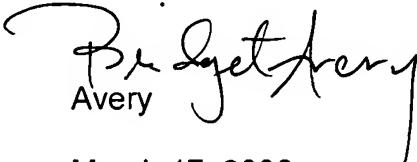
10. Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

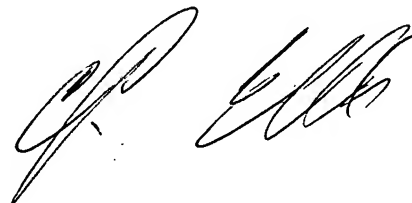
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Janisch shows a binding.

12. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.

  
Avery

March 17, 2006



CHRISTOPHER P. ELLIS  
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